

7

RECEIVED
CENTRAL FAX CENTER

AUG 11 2006

REMARKS

The undersigned attempted to discuss the election with the Examiner but was unable to reach the Examiner before the deadline for response. The undersigned respectfully requests a telephone call at 509-624-4276 if the Examiner disagrees with the positions herein to facilitate the prosecution of the present application.

The Examiner has required restriction under 35 U.S.C. 5121 at paragraph 1 of the Office Action between Group I) increasing without interaction of the sender after the outputting and Group II) increasing to another value authorized by the seller; at paragraph 2 of the Office Action between species 1) attaching and verifying an electronic check via a clearing house and species 2) attaching and verifying an electronic direct payment; and at paragraph 3 of the Office Action between species 1) outputting another electronic mail communication not having an attached value and species 2) providing another electronic mail communication having an attached value.

According to MPEP §806.04(f) (8th ed., rev. 3), it is stated a requirement for restriction may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species but not the first.

Referring to paragraph 1 of page 2 of the Action, Applicants elect the species of group 1 of paragraph 1 and submit that all pending claims read on this elected species. In particular, claim 44 recites "increasing to another value authorized by the sender *before the outputting*" which is not mutually exclusive from the "increasing without interaction of the sender after the outputting" as recited in claim 43. Claims 43 and 44 have not been demonstrated to be mutually exclusive from one another and accordingly the claims are not directed towards different species for which restriction is proper. Accordingly, Applicants elect group 1 of paragraph 1 and submit that all claims including claims 43 and 44 read upon such elected species of group 1.

Referring to paragraph 2 on page 2 of the Office Action, Applicants elect group 1 "attaching and verifying an electronic check via a clearing house" and submit that all pending claims read on the elected group 1. Applicants have been

PDNO. 10007231-1
S/N: 09/812,493
Amendment B

unable to identify any species in the application of an electronic *direct* payment as alleged by the Office. Furthermore, Applicants have been unable to identify any claims which recite an electronic *direct* payment. Applicants respectfully request clarification of the alleged species of paragraph 2 of the Office Action if the Examiner disagrees with this position in an effort to further the prosecution of the present application.

Referring to paragraph 3 of page 3 of the Action, Applicants elect the alleged species of group 2 "providing another electronic mail communication having an attached value." Applicants respectfully submit that claims 41-56 and 58-60 read upon the elected species.

As set forth above, Applicants have attempted to comply with the restriction/election requirement as best understood by Applicants. The undersigned respectfully requests a telephone call at the number provided above if the Examiner disagrees with any positions of Applicants herein.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Charles M. Patton

By:


James D. Shaurette

Reg. No. 39,833

Date: 8/10/06

PDNO. 10007231-1
S/N: 09/812,493
Amendment B